

EXHIBIT A

**IN THE CIRCUIT COURT OF SAINT LOUIS COUNTY, MISSOURI
CIRCUIT JUDGE DIVISION**

TIMOTHY MESHELL

Plaintiff,

V.

**AUTOMOTIVE PRODUCT
CONSULTANTS, LLC**

Serve:

Registered Agent

Kyle McEvoy

770 Spirit of St. Louis Blvd.

Chesterfield, MO 63005

Defendant.

PETITION FOR DAMAGES

COMES NOW Plaintiff Timothy Meshell, by and through his undersigned attorney, and
for his Petition for Damages, states the following:

NATURE OF THE ACTION

1. Count I of this Petition is authorized and instituted under Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, et seq.; Count II of this Petition is authorized and instituted under the Family And Medical Leave Act, 29 U.S.C. § 2615 & 2617 (“FMLA”); Count III of this Petition is authorized and instituted under Sections 407.911 through 407.115 RSMo for unpaid commissions; and Count IV of this Petition is Breach of Contract.

THE PARTIES

2. Plaintiff Timothy Meshell (“Plaintiff”) is an individual and resident of Saint Louis County, Missouri

3. Defendant Automotive Product Consultants, LLC (“Defendant”) is a foreign limited liability company that at all relevant times herein conducted business in Saint Louis County, Missouri.

VENUE AND JURISDICTION

4. Personal jurisdiction and venue are proper because the events described in this Petition occurred in Saint Louis County, Missouri.

FACTS COMMON TO ALL COUNTS

5. Plaintiff started working for Defendant on February 3, 2018 as a senior program advisor.

6. Plaintiff sold automotive warranties for the Defendant.

7. Plaintiff has been on SSI disability since 2000.

8. Plaintiff’s disabilities include congestive heart failure, COPD, osteo-arthritis, diabetes, diverticulosis.

9. The Defendant began to harass Plaintiff when they found out about Plaintiff’s disabilities.

10. The Defendant reduced Plaintiff’s draw from \$3,000.00 per month to \$2,000.00 per month.

11. The Defendant refused to pay Plaintiff commissions that he had earned.

12. The Defendant intentionally routed the lower rated leads to Plaintiff’s phone to reduce his sales.

13. The Defendant’s training manager would stand over Plaintiff for three hours per day.

14. The training manager would change Plaintiff's sales order and Plaintiff's customers would complain about the messed up orders and then Defendant would use that as a basis to write Plaintiff up for disciplinary reasons.

15. Plaintiff had a transient ischemic attack (TIA) at work due to the Defendant's harassment and discrimination on January 11, 2019 and went to the hospital.

16. Plaintiff was in the hospital for over a week.

17. Plaintiff missed work on February 7, 8, and 9 because of diverticulitis.

18. The Defendant terminated Plaintiff on February 11, 2019.

19. The reason Defendant gave to Plaintiff for the termination was that Plaintiff missed work because of his medical conditions.

20. Another employee of Defendant was allowed to work remotely from home because he wanted to live in Florida, however the Defendant would not allow Plaintiff to work remotely when he requested, which would have allowed him to miss less work.

21. The Defendant discriminated against Plaintiff because of his disability, perceived disability and/or because they regarded Plaintiff as being disabled.

**COUNT I -- VIOLATIONS UNDER TITLE I OF THE AMERICANS WITH
DISABILITIES ACT OF 1990 – 42 U.S.C. 12101**

22. Plaintiff restates and re-alleges the foregoing paragraphs as though set forth fully herein.

23. Plaintiff timely filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission ("EEOC") on or about February 25, 2019, Charge number 28E-2019-00692.

24. Plaintiff was issued a Notice of Right to Sue from the EEOC on or about September 4, 2019.

25. Plaintiff is disabled as defined under the Americans with Disabilities Act of 1990.

26. The Plaintiff's disabilities inhibit major life activities including working.

27. The Plaintiff is a member of the class of people intended to be protected by the Americans with Disabilities Act of 1990, as amended.

28. At all relevant times herein, the Defendant was an employer as defined by the Americans with Disabilities Act of 1990, as amended.

29. The Defendant intentionally engaged in unlawful employment practices in violation of 42 U.S.C. § 12101, *et seq.*, of Title I of the Americans with Disabilities Act of 1990, as amended, by practices including but not limited to the following:

- a. Refusing to grant Plaintiff temporary disability benefits;
- b. Refusing to allow Plaintiff to work remotely;
- c. Reducing his draw, refusing to pay him his commissions, intentionally routed the lower rated leads to his phone, having the training manager stand over him for three hours per day, and changing his sales orders and then reprimanding him;
- d. Reprimanding Plaintiff;
- e. Retaliating against Plaintiff for seeking accommodations for his disability;
- f. Retaliating against Plaintiff for seeking medical leave;
- g. Terminating Plaintiff from employment.

30. As a direct and proximate result of these unlawful employment practices, Plaintiff has suffered losses of wages, benefits, experience, and career advancement, incurred attorney fees and also have suffered mental anguish and humiliation.

31. Because of these damages, Plaintiff is entitled to such affirmative relief as may be appropriate, including but not limited to reinstatement, lost wages, and benefits in accordance with the provisions of Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, *et seq.*

32. The Defendant acted with malice and reckless indifference to the rights of Plaintiff.

WHEREFORE, Plaintiff Timothy Meshell prays this honorable court enter Judgment against the Defendant Automotive Product Consultants, LLC and in favor of the Plaintiff, to award the Plaintiff actual damages in the amount determined at trial but in excess of \$25,000.00, for nominal damages in the event no actual damages are found, for back pay, front pay, for lost benefits, for punitive damages, liquidated damages, for interest, for her costs and attorney's fees, for damages for past and future mental anguish, inconvenience, loss quality of life, and pain and suffering, for interest on all amounts, and for such other and further relief as the Court deems just and proper.

COUNT II – VIOLATIONS OF THE FAMILY MEDICAL LEAVE ACT

33. Plaintiff restates and re-alleges the foregoing paragraphs as though set forth fully herein.

34. This Count is authorized and instituted under the Family and Medical Leave Act, 29 U.S.C. § 2615 & 2617 ("FMLA").

35. The Defendant intentionally engaged in unlawful employment practices in violation of FMLA, by practices including but not limited to the following:

- a. Refusing to grant Plaintiff temporary disability benefits;
- b. Refusing to allow Plaintiff to work remotely;

- c. Reducing his draw, refusing to pay him his commissions, intentionally routed the lower rated leads to his phone, having the training manager stand over him for three hours per day, and changing his sales orders and then reprimanding him;
- d. Reprimanding Plaintiff;
- e. Retaliating against Plaintiff for seeking accommodations for his disability;
- f. Retaliating against Plaintiff for seeking medical leave;
- g. Terminating Plaintiff from employment.

36. Defendant acted with malice and reckless indifference to the rights of Plaintiff.

WHEREFORE, Plaintiff Timothy Meshell prays this honorable court enter Judgment against the Defendant Automotive Product Consultants, LLC and in favor of the Plaintiff, to award the Plaintiff actual damages in the amount determined at trial but in excess of \$25,000.00, for nominal damages in the event no actual damages are found, for back pay, front pay, for lost benefits, for punitive damages, liquidated damages, for interest, for her costs and attorney's fees, for damages for past and future mental anguish, inconvenience, loss quality of life, and pain and suffering, for interest on all amounts, and for such other and further relief as the Court deems just and proper.

COUNT III – UPAID COMMISSIONS

37. Plaintiff restates and re-alleges the foregoing paragraphs as though set forth fully herein.

38. This count is brought pursuant to Sections 407.911 through 407.115 RSMo.

39. Plaintiff is a "sales representative" as defined by Section 407.911 RSMo.

40. Defendant is a "Principal" as defined by Section 407.911 RSMo.

41. Plaintiff worked for the Defendant as a sales representative.

42. Defendant compensated Plaintiff in part by paying him a commission for each sale he made.

43. Defendant terminated Plaintiff on February 11, 2019.

44. Plaintiff is owed commissions by the Defendant in an amount of at least \$1,000.00.

45. Said commissions became due no later than February 11, 2019.

46. Defendant has failed to pay such commissions within thirty days of them becoming due.

47. Section 407.913 RSMo. states “Any principal who fails to timely pay the sales representative commissions earned by such sales representative shall be liable to the sales representative in a civil action for the actual damages sustained by the sales representative and an additional amount as if the sales representative were still earning commissions calculated on an annualized pro rata basis from the date of termination to the date of payment.”

48. Section 407.913 RSMo. allows for the collection of costs and attorney’s fees.

WHEREFORE, Plaintiff prays for Judgment against the Defendant for an amount to be determined at trial in an amount of at least \$1,000.00 for his actual damages, plus an additional amount as if Plaintiff were still earning commissions calculated on an annualized pro rata basis from the date of termination to the date of payment, for his costs and attorney’s fees, interest, and for such other and further relief as the court deems just and proper in the circumstances.

COUNT IV – BREACH OF CONTRACT

49. Plaintiff restates and re-alleges the foregoing paragraphs as though set forth fully herein.

50. Plaintiff worked for the Defendant in a sales position.

51. Plaintiff and the Defendant entered into an agreement whereby Plaintiff agreed to perform sales services for the Defendant in return for salary and commissions and bonuses based upon sales made.

52. Plaintiff has made sales for which he is owed commissions and bonuses in the amount of at least one thousand dollars (\$1,000.00).

53. Said sums have been owed to the Plaintiff since no later than February 11, 2019.

54. Plaintiff has substantially performed his agreement in a workmanlike manner.

55. Plaintiff has performed all conditions precedent to Defendant's obligation to pay Plaintiff for the work Plaintiff performed under contract with the Defendant.

56. Defendant has breached the agreement by failing to provide payment for the commissions and bonuses owed.

57. Defendant's failure to pay Plaintiff the amounts demanded for the sales made by Plaintiff is a breach of Defendant's contract with Plaintiff.

58. Plaintiff is entitled to interest on all amounts owed pursuant to Section 408.020 RSMo.

59. As a direct result of Defendant's breach of contract, Plaintiff has been damaged in the amount of at least \$1,000.00, plus interest at the rate of 9% per annum.

WHEREFORE, Plaintiff prays for a Judgment against Defendant in the amount of at least \$1,000.00, for interest at the statutory rate since February 11, 2019, for his costs and for such other and further relief as the court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff, through counsel, respectfully requests a trial by jury on all issues.

Respectfully submitted,

KASPER LAW FIRM, LLC

By: /s/ Ryan Schellert

Kevin J. Kasper, #52171

Ryan P. Schellert, #56710

3930 Old Hwy 94 South - Suite 108

St. Charles, MO 63304

Ph: 636-922-7100

Fax: 866-303-2874

Email: KevinKasper@KasperLawFirm.net

Email: RyanSchellert@KasperLawFirm.net

ATTORNEYS FOR PLAINTIFF

In the
CIRCUIT COURT
 Of St. Louis County, Missouri



For File Stamp Only

Timothy Meshell
 Plaintiff/Petitioner

December 3, 2019
 Date

vs.

Automotive Product Consultants, LLC
 Defendant/Respondent

Case Number

Division

REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now Timothy Meshell, pursuant

Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

Wayne Polette, 3930 S. Old Highway 94 Ste. 108, St. Charles, MO 63304 636-922-7100

Name of Process Server

Address

Telephone

Name of Process Server

Address or in the Alternative

Telephone

Name of Process Server

Address or in the Alternative

Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:

Kyle McEvoy

Name

770 Spirit of St. Louis Blvd.

Address

Chesterfield, MO 63005

City/State/Zip

SERVE:

Name

Address

City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit Clerk

By

Deputy Clerk

Date

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip


 Signature of Attorney/Plaintiff/Petitioner

56710

Bar No.

3930 S. Old Hwy 94, St. Charles, 63304

Address

(636) 922-7100

(866) 303-2874

Phone No.

Fax No.



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DEAN PAUL WALDEMER	Case Number: 19SL-CC05547	(Date File Stamp)
Plaintiff/Petitioner: TIMOTHY MESHELL	Plaintiff's/Petitioner's Attorney/Address RYAN SCHELLERT SUITE 108 3930 OLD HIGHWAY 94 S SAINT CHARLES, MO 63304	
Defendant/Respondent: AUTOMOTIVE PRODUCT CONSULTANTS LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105	
Nature of Suit: CC Employmnt Discrmntn 213.111		

Summons in Civil Case

The State of Missouri to: AUTOMOTIVE PRODUCT CONSULTANTS LLC

Alias:

KYLE MCEVOY REG AGT
770 SPIRIT OF ST LOUIS BLVD
CHESTERFIELD, MO 63005

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739, email at SLCADA@courts.mo.gov, or through Relay Missouri by dialing 711 or 800-735-2966, at least three business days in advance of the court proceeding.

16-DEC-2019

Date

Further Information:

AD

Joan P. Dilmy
Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years who permanently resides with the Defendant/Respondent.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
- ☐ other _____.

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____

Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00 _____

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

Twenty First Judicial Circuit

NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

Purpose of Notice

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

Your Rights and Obligations in Court Are Not Affected By This Notice

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

Alternative Dispute Resolution Procedures

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the “neutral,” who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

(1) Advisory Arbitration: A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator’s decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

(2) Mediation: A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

CCADM73

(3) Early Neutral Evaluation (“ENE”): A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(4) Mini-Trial: A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

(5) Summary Jury Trial: A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

Selecting an Alternative Dispute Resolution Procedure and a Neutral

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 105 South Central Ave., 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

CCADM73



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DEAN PAUL WALDEMER	Case Number: 19SL-CC05547
Plaintiff/Petitioner: TIMOTHY MESHELL	Plaintiff's/Petitioner's Attorney/Address RYAN SCHELLERT SUITE 108 3930 OLD HIGHWAY 94 S SAINT CHARLES, MO 63304
Defendant/Respondent: AUTOMOTIVE PRODUCT CONSULTANTS LLC	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Employmnt Discrmntn 213.111	(Date File Stamp)

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The State of Missouri to: AUTOMOTIVE PRODUCT CONSULTANTS LLC
Alias:

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770 SPIRIT OF ST LOUIS BLVD
CHESTERFIELD, MO 63005

COURT SEAL OF

ST. LOUIS COUNTY

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16-DEC-2019
Date

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Clerk

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- ☒ (for service on a corporation) delivering a copy of the summons and a copy of the petition to

Erin Friend (name) HR Assistant (title).

☐ other _____

Served at 770 Spirit of St. Louis Blvd, Chesterfield MO 63005 (address)
in St Louis (County/City of St. Louis), MO, on 12/23/19 (date) at 2:15 p (time).

Wayne Pollette
Printed Name of Sheriff or Server

Wayne Pollette
Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

Subscribed and sworn to before me on 12/23/19 (date).

My commission expires: Oct 06 2021 Date

Shirley Miller
Notary Public

AMANDA L. MILLER
Notary Public - Notary Seal
St Charles County - State of Missouri
Commission Number 13534807
My Commission Expires Oct 6, 2021




IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: DEAN PAUL WALDEMER	Case Number: 19SL-CC05547
Plaintiff/Petitioner: TIMOTHY MESHELL	Plaintiff's/Petitioner's Attorney/Address RYAN SCHELLERT SUITE 108 3930 OLD HIGHWAY 94 S SAINT CHARLES, MO 63304
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Nature of Suit: CC Employmnt Discrmntn 213.111	(Date File Stamp)

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Erin Friend (name) HR Assistant (title).

☐ other _____

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Wayne Pollette
Printed Name of Sheriff or Server

Wayne Pollette
Signature of Sheriff or Server

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Subscribed and sworn to before me on 12/23/19 (date).

My commission expires: Oct 06 2021 Date

Shirley Miller
Notary Public

AMANDA L. MILLER
Notary Public - Notary Seal
St Charles County - State of Missouri
Commission Number 13534807
My Commission Expires Oct 6, 2021



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<input type="radio"/> MESHELL , TIMOTHY , Plaintiff	represented by	SCHELLERT , RYAN , Attorney for Plaintiff
750 ROBINWOOD FLORISSANT, MO 63033		SUITE 108 3930 OLD HIGHWAY 94 S SAINT CHARLES, MO 63304 Business: (636) 922-7100
Year of Birth: 1968		
<input type="radio"/> AUTOMOTIVE PRODUCT CONSULTANTS LLC , Defendant		
KYLE MCEVOY REG AGT 770 SPIRIT OF ST LOUIS BLVD CHESTERFIELD, MO 63005		

Case.net Version 5.14.0.17

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Released 11/25/2019



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12/30/2019	<input type="checkbox"/> Agent Served Document ID - 19-SMCC-11443; Served To - AUTOMOTIVE PRODUCT CONSULTANTS LLC; Server - ; Served Date - 23-DEC-19; Served Time - 00:00:00; Service Type - Special Process Server; Reason Description - Served
12/23/2019	<input type="checkbox"/> Notice of Service Return of Service. Filed By: RYAN SCHELLERT On Behalf Of: TIMOTHY MESHELL
12/16/2019	<input type="checkbox"/> Summons Issued-Circuit Document ID: 19-SMCC-11443, for AUTOMOTIVE PRODUCT CONSULTANTS LLC. Summons Attached in PDF Form for Attorney to Retrieve from Secure Case.Net and Process for Service.
12/03/2019	<input type="checkbox"/> Filing Info Sheet eFiling Filed By: RYAN SCHELLERT
	<input type="checkbox"/> Motion Special Process Server Motion for Special Process Server. Filed By: RYAN SCHELLERT On Behalf Of: TIMOTHY MESHELL
	<input type="checkbox"/> Pet Filed in Circuit Ct Petition.
	<input type="checkbox"/> Judge Assigned DIV 8